

REMARKS/ARGUMENTS

Claims 1-7, 17-23 and 33-37 are pending in the application. In the Office Action mailed May 25, 2005, the restriction requirement withdrawing claims 8-16, 24-32, 38 and 39 from consideration was made final; claims 33-37 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,820,295 to Webster ("Webster"); and claims 1-7, 17-23 and 33-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Webster in view of U.S. Patent No. 6,276,016 to Springer, et al. ("Springer"). Claims 1, 17 and 33 have been amended to more clearly define the invention. Support for the amendments is found in the specification. No new matter is added.

Applicants have thoroughly reviewed the outstanding Office Action, including the Examiner's remarks and references cited therein. The following remarks and amendments are believed to be fully responsive to the Office Action. All of the pending claims at issue are believed to be patentable over the cited references.

CLAIM OBJECTIONS

Claim 5 was objected to, concerning the relationship of the "supporting position" the "retracted position" to the "first position" and the "second position" of claim 1. Without necessarily conceding the substance of this objection, claim 1 has been amended to change "first position" to "upward position," and "second position" to "deflected position." For the sake of consistency, claim 17 has also been amended to change "first raised position" to "upward position," and "second position" to "deflected position." Therefore, Applicants request that the objection to claim 5 as being vague be removed.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

The Office Action rejects claims 33-37 under 35 U.S.C. § 102(e) as being anticipated by Webster (U.S. Patent No. 6,820,295). Applicants respectfully traverse this rejection.

The Section 102 rejection is proper only if each and every element, as set forth in the claim, is found – i.e., the prior art must teach every aspect of the claim. *See Verdegall Bros. v. Union Oil Co. of California*, 918 F.2d 628, 631 (Fed. Cir. 1987); *see also* M.P.E.P. § 2131. As set forth below, Webster does not teach or suggest the combination recited by Applicants' claims.

Webster does not teach or suggest every aspect of Applicants' independent claim 33 and its dependent claims 34-37. For example, claim 33 and its dependent claims recite a method including, "configuring the cam to not move substantially further along the camming surface when the dock leveler ramp descends faster than a predetermined speed by moving an axle supporting the cam along a longitudinal axis of the support leg."

In contrast, Webster discloses a support leg system in which "a roller 46 [may optionally be] attached to the bottom portion of the support leg[, and t]he roller may roll along the pit." (Webster, col. 5, ll. 41-43.) The roller of Webster is not capable of being moved along a longitudinal axis of the support leg. Thus, Webster does not teach or suggest a combination including "configuring the cam to not move substantially further along the camming surface when the dock leveler ramp descends faster than a predetermined speed by moving an axle supporting the cam along a longitudinal axis of the support leg."

As such, Webster does not teach or suggest a combination including all the elements of Applicants' independent claim 33 and its dependent claims. Therefore, at least for these reasons, Applicants respectfully request that the rejections of claim 33 and its dependent claims 34-37 under 35 U.S.C. § 102(e) as being anticipated by Webster be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-7, 17-23 and 33-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Webster in view of Springer, et al.¹ Applicants respectfully traverse this rejection.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of the ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations. MPEP § 2142; *see also* MPEP 2143. In light of the following arguments, the combined references do not teach or suggest all of the claim limitations of claims 1-7, 17-23 and 33-37.

With regard to claims 1-7, the proposed combination of Webster in view of Springer, et al. does not teach or suggest every aspect of Applicants' independent claim 1 and its dependent claims 2-7. For example, claim 1 and its independent claims recite a combination including "a camming surface biased to an upward position and movable to a deflected position ... and, a lip holder coupled to said camming surface and configured to cause said camming surface to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holder."

In contrast, Webster discloses a support leg system in which "a roller 46 [may optionally be] attached to the bottom portion of the support leg[, and t]he roller may roll along the pit," (Webster, col. 5, ll. 41-43) and Springer, et al. discloses a dock leveler including a "lipkeeper

¹ The Office Action made reference to "Springer et al. # 5,440,703." However, U.S. Patent No. 5,440,703 was issued to Ray, et al. and discloses a "System and method for saving state information in a multi-execution unit processor when interruptable instructions are identified." Since no. 5,440,703 does not appear to be a possible typo referring to another of the references cited by the Examiner, Applicants believe the intended reference was U.S. Patent No. 6,276,016 to Springer, et al., and have based the remarks/arguments on this reference.

130” wherein “[t]he lip 21 is disposed behind the lipkeeper 130 when the dock leveler 10 is in the stored, or cross-traffic position” (Springer, et al., col. 9, ll. 17-18). Thus, in Springer, et al., “[t]he lipkeeper prevents the lip from being pulled out with the leveler in a cross-traffic position, which could represent a security issue....” (Springer, et al., col. 9, ll. 18-21.)

The roller of Webster is biased in a downward position (*see* Webster, col. 4, ll. 48-49; col. 6, ll. 16-17 and ll. 32-34; FIG. 1; FIG. 3 and FIG. 4), and the lipkeeper of Springer, et al. is not coupled to the roller (*see* Springer, et al., FIG. 11). The Office Action concedes that Webster does not disclose a lip holder for supporting the lip. Moreover, the lipkeeper of Springer, et al. is not “configured to cause said [roller] to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holder,” nor is it clear that the lipkeeper of Springer, et al. could be combined with the support leg system of Webster to accomplish this limitation. Thus, Springer, et al. does not cure the insufficiencies of Webster.

In fact, Springer, et al. teaches away from “a lip holder ... configured to cause said camming surface to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holder,” because if the lip in Webster were to engage the fixed lipkeeper disclosed in Springer, et al., the roller would stop moving rather than “move to the deflected position.” Thus, neither Webster nor Springer, et al., alone or in combination, teaches or suggests a combination including “a camming surface biased to an upward position and movable to a deflected position ... and, a lip holder coupled to said camming surface and configured to cause said camming surface to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holder.”

Accordingly, Webster and Springer, et al., alone or in combination, fail to teach or suggest a combination including all the elements of Applicants’ independent claim 1 and its dependent claims 2-7. Therefore, at least for these reasons, Applicants respectfully request that the rejections of claim 1 and its dependent claims 2-7 under 35 U.S.C. § 103 as being unpatentable over Webster in view of Springer, et al. be withdrawn.

With regard to claims 17-23, the proposed combination of Webster in view of Springer, et al. does not teach or suggest every aspect of Applicants' independent claim 17 and its dependent claims 18-23. For example, claim 17 and its independent claims recite a combination including "means for camming biased to an upward position and movable to a deflected position ... and, means for holding the lip configured to cause said camming means to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holding means."

In contrast, as discussed above, Webster discloses a support leg system in which "a roller 46 [may optionally be] attached to the bottom portion of the support leg[, and t]he roller may roll along the pit," and Springer, et al. discloses a dock leveler including a lipkeeper. The Office Action concedes that Webster does not disclose a lip holder for supporting the lip. As explained above, the lipkeeper of Springer, et al. is not "configured to cause said camming means to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holding means," nor is it clear that the lipkeeper of Springer, et al. could be combined with the support leg system of Webster to accomplish this limitation. Thus, Springer, et al. does not cure the insufficiencies of Webster.

Furthermore, as discussed above, Springer, et al. teaches away from "means for holding the lip configured to cause said camming means to move to the deflected position when the ramp descends at any rate and when the lip engages said lip holding means," because if the lip in Webster were to engage the fixed lipkeeper disclosed in Springer, et al., the roller would stop moving rather than "move to the deflected position."

Accordingly, Webster and Springer, et al., alone or in combination, fail to teach or suggest a combination including all the elements of Applicants' independent claim 17 and its dependent claims 18-23. Therefore, at least for these reasons, Applicants respectfully request that the rejections of claim 17 and its dependent claims 18-23 under 35 U.S.C. § 103 as being obvious over Webster in view of Springer, et al. be withdrawn.

Similarly, with regard to claims 33-37, the proposed combination of Webster in view of Springer, et al. does not teach or suggest every aspect of Applicants' independent claim 33 and its dependent claims 34-37.² For example, claim 33 and its independent claims recite a method including "configuring the cam to not move substantially further along the camming surface when the dock leveler ramp descends faster than a predetermined speed by moving an axle supporting the cam along a longitudinal axis of the support leg."

In contrast, as discussed above, Webster discloses a support leg system in which "a roller 46 [may optionally be] attached to the bottom portion of the support leg[, and t]he roller may roll along the pit." The presumed axle supporting the roller of Webster is not capable of being moved along a longitudinal axis of the support leg. Thus, Webster does not teach or suggest a combination including "configuring the cam to not move substantially further along the camming surface when the dock leveler ramp descends faster than a predetermined speed by moving an axle supporting the cam along a longitudinal axis of the support leg."

Nor does Springer, et al. cure the insufficiencies of Webster, since Springer, et al. does not teach or suggest "moving an axle supporting the cam along a longitudinal axis of the support leg." Accordingly, Webster and Springer, et al., alone or in combination, fail to teach or suggest a combination including all the elements of Applicants' independent claim 33 and its dependent claims 34-37. Therefore, at least for these reasons, Applicants respectfully request that the rejections of claim 33 and its dependent claims 34-37 under 35 U.S.C. § 103 as being unpatentable over Webster in view of Springer, et al. be withdrawn.

² Given the rejection of claims 33-37 under 35 U.S.C. § 102(e) as being anticipated by Webster, which has been addressed above, it is not clear whether these claims were intended to be rejected under 35 U.S.C. § 103(a) as well. Nonetheless, Applicants include arguments responsive to the § 103(a) rejection in addition to the arguments provided in response to the § 102(e) rejection.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request that all the objections and rejections to the claims be removed and that the claims pass to allowance. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1567 in an effort to resolve any matter still outstanding before issuing another action. The undersigned Attorney is confident that any issue which might remain can readily be worked out by telephone.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

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